

Administrator will grant or deny the appeal, in writing, stating the reasons for the decision. A hearing will be held to resolve any conflicts as to any material fact. Rules of practice concerning a hearing will be adopted by the Administrator. This administrative remedy must be exhausted before a person can file suit in court challenging the cancellation of a compliance agreement.

(5) Where a compliance agreement is denied or cancelled, regulated garbage may continue to be unloaded from a means of conveyance and disposed of at an approved facility in accordance with § 94.5(f)(1).

(Approved by the Office of Management and Budget under control numbers 0579-0015 and 0579-0054)

[39 FR 32323, Sept. 6, 1974, as amended at 43 FR 39956, Sept. 8, 1978; 45 FR 80269, Dec. 4, 1980; 48 FR 57472, Dec. 30, 1983; 53 FR 22129, June 14, 1988; 53 FR 48520, Dec. 1, 1988; 53 FR 49977, Dec. 13, 1988; 53 FR 52576, Dec. 28, 1988; 58 FR 66248, Dec. 20, 1993; 59 FR 67134, Dec. 29, 1994; 62 FR 19903, Apr. 24, 1997; 62 FR 56022, Oct. 28, 1997]

§ 94.6 Carcasses, parts or products of carcasses, and eggs (other than hatching eggs) of poultry, game birds, or other birds; importations from regions where Exotic Newcastle Disease (END) or *S. enteritidis* is considered to exist.

(a) *Regions where Exotic Newcastle disease (END) is considered to exist.* (1) Exotic Newcastle disease (END) is considered to exist in all regions of the world except those listed in paragraph (a)(2) of this section.

(2) The following regions are considered to be free of Exotic Newcastle disease (END): Australia, Canada, Chile, Costa Rica, Denmark, Fiji, Finland, France, Great Britain (England, Scotland, Wales, and the Isle of Man), Greece, Iceland, Luxembourg, New Zealand, Republic of Ireland, Spain, Sweden, and Switzerland.

(b) *Regions where *S. enteritidis*, phage-type 4, is considered to exist.* (1) *S. enteritidis*, phage-type 4, is considered to exist in all regions of the world except those listed in paragraph (b)(2) of this section.

(2) The following regions are considered to be free of *S. enteritidis*, phage-type 4: Canada.

(c) *Carcasses, and parts or products of carcasses, from regions where END is considered to exist.* Carcasses, and parts or products of carcasses, of poultry, game birds, or other birds may be imported only in accordance with this section if they: are of poultry, game birds, or other birds that were raised or slaughtered in any region where END is considered to exist (see paragraph (a) of this section); are imported from any region where END is considered to exist; or are moved into or through any region where END is considered to exist at any time before importation or during shipment to the United States.

(1) Carcasses of game birds may be imported if eviscerated, with heads and feet removed. Viscera, heads, and feet removed from game birds are ineligible for entry into the United States.

(2) Carcasses, or parts or products of carcasses, of poultry, game birds, and other birds may be imported for consignment to any museum, educational institution or other establishment which has provided the Administrator, with evidence that it has the equipment, facilities, and capabilities to store, handle, process, or disinfect such articles so as to prevent the introduction or dissemination of END into the United States, and which is approved by him.⁴

(3) Carcasses, or parts or products of carcasses, of poultry, game birds, and other birds, may be imported if packed in hermetically sealed containers and if cooked by a commercial method after such packing to produce articles which are shelf stable without refrigeration.

(4) Carcasses, or parts or products of carcasses, of poultry, game birds, and other birds may be imported if thoroughly cooked, and if, upon inspection by a representative of the United States Department of Agriculture at the port of arrival, the carcasses or parts or products thereof have a thoroughly cooked appearance throughout.

⁴The names and addresses of approved establishments may be obtained from, and requests for approval may be made to, the Animal and Plant Health Inspection Service, Veterinary Services, National Center for Import-Export, 4700 River Road Unit 38, Riverdale, Maryland 20737-1231.

(5) Poultry carcasses or parts or products of poultry carcasses that originated in a region considered to be free of END and are processed (cut, packaged, and/or cooked) in a region where END is considered to exist may be imported under the following conditions:

(i) *Shipment to approved establishments.* (A) The poultry carcasses or parts or products of poultry carcasses must be shipped from the END-free region where they originated in closed containers sealed with serially numbered seals applied by an official of the national government of that region. They must be accompanied by a certificate that is signed by an official of that region's national government and that specifies the products' region of origin, the processing establishment to which the poultry carcasses or parts or products of poultry carcasses are consigned, and the numbers of the seals applied to the shipping containers.

(B) the poultry carcasses or parts or products of poultry carcasses may be removed from containers at the processing establishment in the region where END is considered to exist only after an official of that region's national government has determined that the seals are intact and free of any evidence of tampering. The official must attest to this fact by signing the certificate accompanying the shipment.

(ii) *Handling of poultry carcasses or parts or products of poultry carcasses.* Establishments⁵ in regions where END is considered to exist that process poultry carcasses or parts or products of poultry carcasses for export to the United States:

(A) May not receive or handle any live poultry.

(B) Must keep any records required by this section on file at the facility for a period of at least 2 years after export of processed products to the United States, and must make those

records available to USDA inspectors during inspections.

(C) May process poultry carcasses or parts or products of poultry carcasses that originate in both END-free regions and regions where END is considered to exist, provided that:

(1) All areas, utensils, and equipment likely to contact the poultry carcasses or parts or products of poultry carcasses to be processed, including skimming, deboning, cutting, and packing areas, are cleaned and disinfected between processing poultry from regions where END is considered to exist and poultry carcasses or parts or products of poultry carcasses from END-free regions.

(2) Poultry carcasses or parts or products of poultry carcasses intended for export to the United States are not handled, cut, or otherwise processed at the same time as any poultry not eligible for export to the United States.

(3) Poultry carcasses or parts or products of poultry carcasses intended for export to the United States are packed in clean new packaging that is clearly distinguishable from that containing any poultry not eligible for export to the United States.

(4) Poultry carcasses or parts or products of poultry carcasses are stored in a manner that ensures that no cross-contamination occurs.

(iii) *Cooperative service agreement.* Operators of processing establishments must enter into a cooperative service agreement with APHIS to pay all expenses incurred by APHIS in inspecting the establishment. APHIS anticipates that such inspections will occur once a year. The cooperative service account must always contain a balance that is at least equal to the cost of one inspection. APHIS will charge the cooperative service account for travel, salary, and subsistence of APHIS employees, as well as administrative overhead and other incidental expenses (including excess baggage charges up to 150 pounds).

(iv) *Shipment to the United States.* Poultry carcasses and parts or products of poultry carcasses to be imported into the United States must be shipped from the region where they were processed in closed containers

⁵As a condition of entry into the United States, poultry or poultry products must also meet all of the requirements of the Poultry Products Inspection Act (21 U.S.C. 451 *et seq.*) and regulations thereunder (9 CFR part 381), including requirements that the poultry or poultry products be prepared only in approved establishments.

sealed with serially numbered seals applied by an official of the national government of that region. The shipments must be accompanied by a certificate signed by an official of the national government of the region where the poultry was processed that lists the numbers of the seals applied and states that all of the conditions of this section have been met. A copy of this certificate must be kept on file at the processing establishment for at least 2 years.

(6) Carcasses or parts or products of carcasses, of poultry, game birds, and other birds that do not otherwise qualify for importation under paragraph (c) of this section may be imported only if the importer applies to, and is granted a permit by, the Administrator, Veterinary Services authorizing such importation. Permission will be given only when the Administrator determines that such importation will not constitute a risk of introduction or dissemination of END into the United States. Application for a permit may be made in accordance with paragraph (e) of this section.

(d) *Eggs (other than hatching eggs) from regions where END or S. enteritidis is considered to exist.* Eggs (other than hatching eggs⁶) from poultry, game birds, or other birds may be imported only in accordance with this section if they: Are laid by poultry, game birds, or other birds that were raised in any region where END or *S. enteritidis*, phage-type 4, is considered to exist (see paragraphs (a) and (b) of this section); are imported from any region where END or *S. enteritidis*, phage-type 4, is considered to exist; or are moved into or through any region where END or *S. enteritidis*, phage-type 4, is considered to exist at any time before importation or during shipment to the United States.

(1) *With a certificate.* The eggs may be imported if they are accompanied by a certificate signed by a salaried veterinarian of the national government of the region of origin and:

(i) The eggs are imported in cases marked with the identity of the flock of origin and sealed with the seal of the

national government of the region of origin.

(ii) The certificate accompanying the eggs is presented to an authorized inspector when the eggs reach the port of arrival in the United States.

(iii) The certificate identifies the flock of origin and shows the region of origin, the port of embarkation, the port of arrival, the name and address of the exporter and importer, the total number of eggs, and cases of eggs, shipped with the certificate, and the date the certificate was signed.

(iv) The certificate states that the eggs qualify for importation in accordance with this section.

(v) No more than 90 days before the certificate was signed, a salaried veterinary officer of the national government of the region of origin inspected the flock of origin and found no evidence of communicable diseases of poultry.

(vi) The eggs were washed, to remove foreign material from the surface of the shells, and sanitized on the premises of origin with a hypochlorite solution of from 100 ppm to 200 ppm available chlorine.

(vii) The eggs were packed on the premises of origin in previously unused cases.

(viii) Before leaving the premises of origin, the cases in which the eggs were packed were sealed with a seal of the national government of the region of origin by the salaried veterinarian who signed the certificate.

(ix) And, if the eggs were laid in any region where END is considered to exist (see paragraph (a) of this section):

(A) No END occurred on the premises of origin or on adjoining premises during the 90 days before the certificate was signed.

(B) There is no evidence that the flock of origin was exposed to END during the 90 days before the certificate was signed.

(C) The eggs are from a flock of origin found free of END in one of the following ways:

(1) Sentinel birds⁷ were present in the flock of origin for at least 60 days

⁶The requirements for importing hatching eggs are contained in Part 92 of this chapter.

⁷For information on sources of sentinel birds, contact the Animal and Plant Health Inspection Service, Veterinary Services, Continued

before the certificate was signed. There was at least 1 sentinel bird per 1,000 poultry, with at least 30 sentinel birds per house. The sentinel birds remained free of clinical and immunological evidence of END as demonstrated by negative hemagglutination inhibition tests conducted on blood samples drawn at 10-day intervals by a salaried veterinary officer of the national government of the region of origin. The tests were conducted in a laboratory located in the region of origin, and the laboratory was approved to conduct the tests by the national government of that region or;

(2) Once every week, beginning at least 60 days before the certificate was signed, a salaried veterinary officer of the national government of the region of origin collected carcasses of all poultry that died during that week, and the carcasses were examined for END using the embryonated egg inoculation technique. Once a month, beginning at least 60 days before the certificate was signed, a salaried veterinary officer of the national government of the region of origin collected tracheal and cloacal swabs from not less than 10 percent of the poultry in the flock, and the swabs were tested for END. All examinations and tests were conducted in a laboratory located in the region of origin, and the laboratory was approved to conduct the tests and examinations by the national government of that region. All results were negative for VVND.

(x) And, if the eggs were laid in any region where *S. enteritidis*, phage-type 4, is considered to exist (see paragraph (b) of this section):

(A) No salmonellosis caused by *S. enteritidis* occurred on the premises of origin or on adjoining premises during the 90 days before the certificate was signed.

(B) There is no evidence that the flock of origin was exposed to *S. enteritidis* during the 90 days before the certificate was signed.

(C) The eggs are from a flock of origin found free of *S. enteritidis* as follows:

(1) At least 60 days before the certificate was signed, a veterinary medical officer of the national government of the region of origin took a blood specimen from a representative sample of at least 300 poultry in each house, or, if any house contained fewer than 300 poultry, from all the poultry in that house. The blood specimens were tested for *S. enteritidis* with *Salmonella pullorum* or *S. enteritidis* antigen using a tube or plate test. The tests were conducted in a laboratory located in the region of origin, and the laboratory was approved to conduct the tests by the national government of that region.

(2) Beginning the week after the flock was tested and found negative as required in paragraph (d)(1)(x)(C)(1) of this section, and continuing once a week thereafter, a salaried veterinarian of the national government of the region of origin collected 25 carcasses, or 10 percent of the carcasses, whichever was greater, of all the poultry that died in each house during the previous week. The carcasses were bacteriologically examined and found negative for *S. enteritidis*. The examinations were conducted in a laboratory located in the region of origin, and the laboratory was approved to conduct the examinations by the national government of that region.

(3) After the blood specimens were drawn as required in paragraph (d)(1)(x)(C)(1) of this section, no poultry were added to the flock of origin until a blood specimen from each was tested for *S. enteritidis* with *Salmonella pullorum* or *S. enteritidis* antigen using a plate or tube test, and the specimen was found negative. The tests were conducted in a laboratory located in the region of origin, and the laboratory was approved to conduct the tests by the national government of that region.

(2) To an approved establishment for breaking and pasteurization. The eggs may be imported if they are moved from the port of arrival in the United States, under seal of the United States Department of Agriculture, to an approved establishment for breaking and pasteurization. Establishments will be

Operational Support, 4700 River Road Unit 33, Riverdale, Maryland 20737–1231.

approved when the Administrator determines that pasteurization and sanitation procedures for handling the eggs, and for disposing of egg shells, cases, and packing materials, are adequate to prevent the introduction of END or *S. enteritidis*, phage-type 4, into the United States.

(3) *For scientific, educational, or research purposes.* The eggs may be imported if they are imported for scientific, educational, or research purposes and the Administrator has determined that the importation can be made under conditions that will prevent the introduction of END or *S. enteritidis*, phage-type 4, into the United States. The eggs must be accompanied by a permit obtained from APHIS prior to the importation in accordance with paragraph (e) of this section, and they must be moved and handled as specified on the permit to prevent the introduction of END or *S. enteritidis*, phage-type 4, into the United States.

(4) *Other.* The eggs may be imported when the Administrator determines that the eggs have been cooked or processed or will be handled in a manner that will prevent the introduction of END or *S. enteritidis*, phage-type 4, into the United States. The eggs must be accompanied by a permit obtained from APHIS prior to the importation in accordance with paragraph (e) of this section, and they must be moved and handled as specified on the permit to prevent the introduction of END or *S. enteritidis*, phage-type 4, into the United States.

(e) To apply for a permit, contact the Animal and Plant Health Inspection Service, Veterinary Services, National Center for Import-Export, 4700 River Road Unit 38, Riverdale, Maryland 20737-1231.

(Approved by the Office of Management and Budget under control number 0579-0015)

[39 FR 39546, Nov. 8, 1974; 39 FR 41242, Nov. 26, 1974]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting § 94.6, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and on GPO Access.

§ 94.7 Disposal of animals, meats, and other articles ineligible for importation.

(a) Ruminants and swine, and fresh (chilled or frozen) meats, prohibited importation under §§ 94.1, 94.8, 94.9, 94.10, 94.12, 94.14, or 94.18, which come into the United States by ocean vessel and are offered for entry and refused admission into this country shall be destroyed or otherwise disposed of as the Administrator, may direct pursuant to section 306 of the Act of June 17, 1930, as amended (19 U.S.C. 1306), unless they are exported by the consignee within 48 hours, and meanwhile are retained under such isolation and other safeguards as the Administrator, may require to prevent the introduction or dissemination of livestock or poultry diseases into the United States.

(b) Ruminants and swine, and fresh (chilled or frozen) meats, prohibited importation under §§ 94.1, 94.8, 94.9, 94.10, 94.12, 94.14, or 94.18, which come into the United States aboard an airplane or railroad car and are offered for entry and refused admission into this country shall be destroyed or otherwise disposed of as the Administrator, may direct pursuant to section 306 of the Act of June 17, 1930, as amended (19 U.S.C. 1306), unless they are exported by the consignee within 24 hours and meanwhile are retained under such isolation and other safeguards as the Administrator, may require to prevent the introduction or dissemination of livestock or poultry diseases into the United States.

(c) Ruminants and swine, and fresh (chilled or frozen) meats, prohibited importation under §§ 94.1, 94.8, 94.9, 94.10, 94.12, 94.14, or 94.18, which come into the United States by any means other than ocean vessel, airplane, or railroad car and are offered for entry and refused admission into this country shall be destroyed or otherwise disposed of as the Administrator, may direct pursuant to section 306 of the Act of June 17, 1930, as amended (19 U.S.C. 1306), unless they are exported by the consignee within 8 hours on the same means of conveyance and meanwhile are retained under such isolation and other safeguards as the Administrator, may require to prevent the introduction or dissemination of livestock or